

April 3, 2001

Mr. John Alexander, Legal Counsel  
Board of Lucas County Commissioners  
One Government Center, Suite 800  
Toledo, OH 43624

Prosecutor's Opinion 01-11

### **SYLLABUS**

Boards of county commissioners are no longer required to make a health maintenance organization (HMO) available to county employees.

### **OPINION**

I am responding to your request for my opinion concerning whether it is necessary for the Board of Lucas County Commissioners to make a health maintenance organization (HMO) available to Lucas County employees. The offering of an HMO option is addressed by both Ohio and federal law.

The law in Ohio specifically states that a board of county commissioners "may" offer an HMO option to county employees. O.R.C. Section 305.17.1(B). Even though it is optional whether a board of county commissioners makes an HMO available, if it chooses to do so, the employees must be able to:

1. choose between the HMO and another insurance plan as long as the employee pays any additional cost for the HMO above the other insurance plan; and
2. change from one insurance plan to the other plan one time each year.

O.R.C. Section 305.17.1(B).

The current<sup>1</sup> status of the federal law is that it is optional whether a political subdivision makes an HMO available to its employees. 42 USCS Section 300e-9. This statute only applies to political subdivisions seeking federal funding for family planning services, for preventative health services or for sexually transmitted diseases services. 42 USCS Section 300e-9. Like the Ohio law, the federal law also places requirements on the political subdivision if it does offer an HMO. The requirements are:

1. there will be no financial discrimination against the employee electing the HMO;
2. if employee contributions are required, they must be able to be paid through payroll deductions if that option is provided for other health insurance; and
3. The political subdivision will not be required to pay more as a result of the law than it would be required to pay under a collective bargaining agreement or other legally enforceable contract to provide health benefits for employees.

42 USCS Section 300e-9.

Based upon Ohio Revised Code Section 305.171(B) and the current language in 42 USCS Section 300e-9, it is my opinion that the Board of Lucas County Commissioner is not required to make an HMO option available to Lucas County employees. However, if the Board of Lucas County Commissioners does make an HMO option available, the requirements outlined above must be followed.

Sincerely,

JULIA R. BATES  
PROSECUTING ATTORNEY

JRB/bgm

---

<sup>1</sup>The letter requesting my opinion stated that your office had been informed in the 1980's that an HMO had to be offered to employees if an HMO was licensed for operation in the geographic area. This was a requirement until October 24, 1995 for political subdivisions seeking federal funding for family planning services, for preventative health services or for sexually transmitted diseases services. 42 USCS Section 300e-9.